SouthTrust Bank
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April 20, 2004

Ms. Jennifer J. Johnson
Secretary, Board of Governors
Federal Reserve System
20th Street and Constitution Avenue NW
Washington, DC 20551
Attention Docket No. R-1180

Re: Request for Burden Reduction Recommendations; Consumer Protection: Lending-Related Rules; Economic Growth and Regulatory Paperwork Reduction Act of 1996 Review

Dear Ms. Johnson:

SouthTrust Bank ("SouthTrust") appreciates the opportunity to comment on the issues under consideration by the Federal Regulatory Agencies. SouthTrust Corporation is a $51.9 billion regional bank holding company with over 717 financial centers located in nine states. Please find below comments on specific issues outlined in the request for comment.

A. Need for statutory change

The fundamental underlying requirements of the lending related statutes are important to the protection of both consumers and financial institutions. Each regulation has its place in the family of lending regulations. For example, Fair Housing, Flood, Leasing, ECOA, HMDA, and TILA each serve an important underlying purpose. Problems arise, however, when the regulations overstep their fundamental purpose.

For example, Regulation B and Regulation C overlap with regard to required government monitoring information. To have this requirement in two regulations is redundant and unnecessary. Should a bank violate the requirement, it faces violations under two regulations.

Regulation B requirements also complicate the requirements of other regulations. For example, to ensure compliance with the Customer Identification Program of the USA PATRIOT Act, financial institutions considered copying drivers' licenses to record personal information. However, Regulation B prohibits the collection and retention of certain information on a drivers' license for purposes other than real estate lending. Compliance with the USA PATRIOT Act would be much easier if the Regulation B restrictions were modified.

A third example is in the definitions used by the regulations. Each regulation begins with a definition section. However, these definitions are not consistent among regulations. For example, the word “dwelling” changes meaning at least three times from regulation to regulation, and then is omitted, or included in another definition, in regulations such as Regulation B and Flood. Creating consistency in the definitions will help ease the regulatory burden imposed on financial institutions.

B. Need and purpose of the regulations

The lending area of banking has become over regulated. For example, the issue of fair lending is regulated by: Regulation AA, Regulation B, Regulation C, Fair Housing, and in part by Regulation Z. The fair lending aspects of each of these regulations could be combined into one regulation that already exists. If the reporting requirements of Regulation C remain, the fair lending requirements of the other regulations could be included with the reporting requirements of Regulation C. Regulation C would be most appropriate since one of the stated purposes of the regulation is to assist in identifying possible discriminatory lending patterns and enforcing anti-discrimination statutes.

The purpose of new or amended regulations is sometimes questionable. Consider the new Regulation B amendments. The Regulation now requires that financial institutions verify an applicant’s intent to apply for joint credit. However, the fact that two applicants sign a note, or an application, is not allowed as evidence of intent to apply for joint credit. Why would an applicant sign an application or a note if the intent of that applicant were not to apply for joint credit or to agree to be jointly liable on the note? There is no need or purpose to have a separate acknowledgement for an applicant to acknowledge intent if he is already signing the application or signing to be liable on the note. Although the Amendment requires this new acknowledgement, the Regulation failed to change the Uniform Residential Loan Application (URLA), a model form. Why would a regulatory agency deem an institution to be in compliance with a regulation by using a model form, yet not have an acknowledgement of intent to apply for joint credit anywhere on the form? Does this omission require the intent to be verified for all non-real estate loans but not on real estate loans? Additionally, this requirement seems to require acknowledgement by all applicants at the same time. In this day and age, when customers are increasingly busy, it is rare that all applicants will apply in person at the same time. Many applications are taken electronically. As a result, requiring signatures, at application, is becoming increasingly difficult. The need and purpose of the regulatory change is unclear.

C. General approach/flexibility

When discussing the flexibility/inflexibility of the regulatory requirements, Regulation C comes to mind. The Amendments that were effective January 1, 2004 have offended many Hispanic employees, applicants, and customers. The new ethnicity and race fields are very difficult for bank employees to explain and even harder for applicants to understand. It is uncomfortable for an employee, or an applicant, to discuss the ethnicity field of Hispanic or non-Hispanic. However, when a Hispanic applicant is then required to pick a race, the difficulty of the situation is increased. The reasons for the rigidity of the test and the need for the change are unclear. The ethnicity field should be removed and because Hispanic is a race, it should be included in the race field.

D. Effect of the regulations on competition

In today's market, consumers are faced with many options when considering loan products. Consumers can choose to borrow from federally insured institutions or the less regulated institutions such as the neighborhood mortgage brokers. The federally insured institutions are more restricted by regulatory requirements in the development, marketing, and advertising of its products. As such, these institutions are at a greater competitive disadvantage than the institutions that are not federally insured.

The regulations should apply evenly to all providers of financial services. The fundamental business of lending is the same whether an institution is federally insured or not. However, consumer protection regulations placed on federally insured institutions should apply to all lending institutions in order to protect consumers. Regulation Z requirements are in place to ensure that consumers can easily compare products and fees. However, the volume of paperwork that a customer receives at application, and at closing, only confuses the customer. Because of the sheer volume of disclosures that consumers receive, many rarely read the disclosures, even if they are "clear and conspicuous." Included in these disclosures is terminology that is supposedly consistent from institution to institution. Customers are no better served by this terminology when consumers do not understand the definitions and are continually confused by the APR, finance charges and fees.

A second example of the unfair competitive advantage is in the requiring of adverse action notices when an affiliate can provide the product requested. Many times it is more beneficial to the customer, and the financial institution, for the bank to work with the customer to offer alternative loan products if they do not qualify for the type of loan for which they originally applied. However, under current regulations, if a bank is to consider an affiliate's products, the bank must first send an adverse action notice. Secondly, a federally insured institution must allow a consumer the opportunity to opt out of any information sharing among affiliates. More often than not, by the time the bank has met these requirements, another institution has already approved a customer. This can easily be corrected by allowing federally insured institutions to work with consumers to meet their lending needs and eliminate the need for two applications by allowing institutions to share information among its affiliates.

Another solution to this unfair competitive advantage for uninsured institutions is to have disclosures tied to the product, not to the institutions providing the product. Additionally, all disclosures tied to that product should be the same across all institutions. This would enable an applicant to take a disclosure from the corner mortgage broker to the bank down the street and compare line for line the points, fees, interest rate, and other terms of the product. The consumer could then distinguish lenders and pick the lending product that is best for their circumstances. However, if this option were done, the disclosures would need to be model disclosures and would need to be limited to only the critical information a consumer needs. Otherwise, the industry will return to the volume of disclosures that are currently received and the consumer will stop reading any of the disclosures.

E. Reporting, record keeping and disclosure requirements

Regulation C is by far the most restrictive regulation as far as reporting, record keeping and disclosure requirements. Many of the reports that are filed in conjunction with the Regulation C requirements are not understood by customers and are simply discarded by employees. If the Federal Reserve Board is making these reports for consumer use, the reports should be printed in a format that is easily understood. Data compilation is extremely burdensome, and there are many questions concerning its usefulness. At the time this request for comment was issued, the burden associated with HMDA data collection was substantially increased. Consumer advocate groups continually desire more information. The new 2004 HMDA requirements provide more information but create an incredible reporting burden that is not outweighed by the benefit to these consumer advocate groups or the strength of the reports. The burden of increased data compilation and reporting is an increased cost to the banks that ultimately is passed on to the consumer. In effect, the consumer advocate's thirst for information ultimately cost the consumer more than the benefit that is provided. The recording and reporting of this information is yet another layer of regulatory burden placed on financial institutions.

In addition, there are unrealistic disclosure requirements for some forms of advertising. For example, Regulation Z requires additional disclosures if certain terms are used. This rule has no exceptions. Therefore, these additional disclosures are required if the advertisement is in a newspaper, on a flier in a statement, on a financial center's marquee, or on an interstate billboard. This is not practical. There needs to be an exemption for certain types of advertising media such as the exemption in section 230.8(e) of Regulation DD.

F. Consistency and redundancy

As stated earlier, many of the regulations overlap. Although they overlap, they are not consistent and do not contain the same regulatory requirements. Therefore, institutions must ensure compliance with many regulations that cover the same topic, yet do so differently. The regulations do need greater consistency and uniform enforcement.

Take, for example, the flood regulations. The Acts and Regulations implementing flood requirements include, but are not limited to:

- The 1994 National Flood Insurance Reform Act, included in Title V of the Riegle Community Development and Regulatory Improvement Act of 1994,
- The National Flood Insurance Act of 1968,
- The Flood Disaster Protection Act of 1973,
- The National Flood Insurance Reform Act of 1994

- The Coastal Barrier Resources Act, and
- The Mandatory Purchase of Flood Insurance Guidelines

These Acts and regulations are enforced by the Federal agencies such as FEMA, the NFIP and the Federal Regulatory Agencies. Recently, our institution was calculating the amount of required flood insurance on a certain property. In attempting to define "replacement cost" and trying to determine if "replacement cost" were a factor in the calculation, we received no less than five definitions. FEMA, the NFIP, the supporting regulations, and the federal agencies each have their own opinion as to how to calculate flood insurance. If the issue expands to flood insurance on a condominium, the differences in the calculations increase three fold. The regulations are not clear and they are not enforced uniformly. The Acts and regulations need to be consolidated in order for the federal agencies, and the institutions they supervise, to be able to pick up an Act or a regulation and determine how to calculate flood insurance.

G. Clarity

Regulations are drafted unclearly. They are difficult for a consumer to read and determine if a financial institution complies with the laws they are required to follow. The difficulty of interpretation applies not only to consumers, but also to bankers and examiners. For a consumer to review Regulation Z, and attempt to determine if his loan is a HOEPA loan, or if a fee should be a finance charge that is included in the APR, is very difficult without visiting the office of an attorney or an accountant. The regulations need to be simplified and clarified.

Although an entire overhaul of the lending regulations would be a massive undertaking, all involved parties would benefit from fewer disclosures and shorter closing packages. However, when this overhaul takes place, and the regulations are consolidated and applied to all lending entities evenly, consumers will be better protected and will have a greater understanding of the products they receive. This overhaul will allow institutions to better serve their customers and comply with the regulations, while the overseeing agencies would be better suited to monitor the institutions under their supervision.

Conclusion

Overall, SouthTrust supports the reduction of the regulatory burden on insured depository institutions. We thank you for the opportunity to comment on these regulations, and we hope these comments will be useful. Please feel free to call on me if I may be of assistance to you, or the Board, by providing further industry input.

Sincerely,

Kim B. Bailey, CRCM
Vice President, Compliance Team Manager
SouthTrust Bank